

A2Z Taxcorp LLP

Validity of arrest under GST Act upheld where supported by material evidence, restraint during search not equivalent to arrest.

The Hon'ble Telangana High Court in the case of *Rishi Nand Kishore Gupta vs. Union of India [Writ Petition No. 6657 of 2026, order dated March 23, 2026]* held that the arrest of the Petitioner under Section 132 of the CGST Act was lawful and supported by sufficient material indicating his involvement as a mastermind in an organized GST evasion syndicate, and that there was no violation of Article 22(2) of the Constitution as the Petitioner was produced before the Magistrate within 24 hours from the time of formal arrest.

Facts:

Rishi Nand Kishore Gupta (**"the Petitioner"**) is the CEO of M/s Fino Payments Bank Limited and has been associated with the banking industry for several decades. The Union of India (**"the Respondent"**), through officers of the Directorate General of GST Intelligence (DGGI), initiated investigation into alleged GST evasion involving illegal online gaming platforms operated through fintech entities and associated intermediaries.

The Petitioner was arrested on February 27, 2026 in connection with offences under Section 132(1)(i) of the CGST Act. Prior to the arrest, the Respondent had issued multiple letters and summons beginning January 19, 2026 seeking data and documents relating to certain entities suspected to be involved in GST evasion. Despite issuance of summons on multiple dates, the required information was not furnished. Consequently, authorization for search was issued on February 26, 2026 under Section 67(2) of the CGST Act.

Upon completion of the search, the grounds of arrest were handed over, and the Petitioner was formally arrested at 5:50 am on February 27, 2026. Thereafter, he was medically examined and produced before the learned Additional Chief Judicial Magistrate, Esplanade, Mumbai at 8:30 pm on February 27, 2026, where transit remand was granted. Subsequently, he was

A2Z Taxcorp LLP

produced before the Special Judge for Economic Offences at Hyderabad on March 01, 2026 and remanded to judicial custody.

The Petitioner contended that his arrest was illegal and violative of Articles 14, 19, 21 and 22(2) of the Constitution. He asserted that he was effectively in custody from 1:03 pm on February 26, 2026 when his movement was restricted by DGGI officers, and therefore, his production before the Magistrate exceeded the permissible 24-hour period. He further contended that non-cooperation cannot be a ground for arrest and that the entire process was arbitrary.

The Respondent contended that the Petitioner had failed to cooperate with the investigation despite repeated summons and had given evasive replies during recording of statements. It was submitted that the arrest was made only after collection of substantial evidence showing involvement of the Petitioner in an organized syndicate operating illegal online gaming platforms through shell entities, resulting in GST evasion of approximately ₹840 crores out of transactions amounting to nearly ₹3,000 crores. It was further contended that the arrest was effected at 5:50 am on February 27, 2026 and the Petitioner was produced before the Magistrate within 24 hours, thereby complying with Article 22(2).

Aggrieved by the arrest and remand, the Petitioner approached the High Court by way of a writ petition seeking declaration of arrest as illegal and for release on bail.

Issue:

Whether the arrest of the Petitioner under Section 132 read with Section 69 of the CGST Act was illegal on account of violation of Article 22(2) of the Constitution?

Held:

The Hon'ble Telangana High Court in ***Writ Petition No. 6657 of 2026*** held as under:

A2Z Taxcorp LLP

- Observed that, the search conducted on February 26, 2026 was pursuant to valid authorization under Section 67(2) of the CGST Act and the Petitioner's statement was recorded till early hours of February 27, 2026.
- Noted that, the arrest memo clearly shows that the Petitioner was arrested at 5:50 am on February 27, 2026 and that the grounds of arrest were duly communicated to him.
- Observed that, the contention that the Petitioner was in custody from 1:03 pm on February 26, 2026 does not merit acceptance, as presence during search proceedings and recording of statement pursuant to summons cannot be equated with arrest. Further, even if the Petitioner's version is considered, his production before the Magistrate at 8:30 pm on February 27, 2026 was within the 24-hour period mandated under Article 22(2) of the Constitution.
- Observed that, the grounds of arrest demonstrate that sufficient material had been collected during investigation indicating that the Petitioner was one of the masterminds in an organized syndicate involved in illegal online gaming and GST evasion of approximately ₹840 crores. The investigation revealed involvement of dummy program managers and shell entities, routing of funds without payment of GST, and failure of the company to conduct required inspections and audits, indicating systemic failure attributable to the Petitioner.
- Observed that, the offences under Section 132(1)(a) and 132(1)(i) of the CGST Act are cognizable and non-bailable, and the competent authority had recorded reasons to believe before authorizing arrest.
- Held that, no violation of Article 22(2) or any fundamental right of the Petitioner is made out and that the Petitioner failed to establish any ground for interference.
- Accordingly, held that the writ petition is devoid of merit and dismissed the same.

A2Z Taxcorp LLP

Our Comments:

The Apex Court in ***V. Senthil Balaji v. State [Criminal Appeal Nos. 2284–2285 of 2023, dated August 7, 2023]***, held that procedural safeguards such as issuance of notice under Section 41A CrPC are not intended to apply in cases involving economic offences. The reasoning adopted therein is that economic offences, by their nature, involve complex financial structures and require effective investigation, thereby justifying immediate arrest in appropriate cases. The present judgment aligns with this reasoning by emphasizing the scale of alleged GST evasion and organized nature of the syndicate.

Further this judgment distinguishes ***Niranjan Singh v. Prabhakar Rajaram Kharote [(1980) 2 SCC 559]***, where the Supreme Court held that “custody” includes physical control even without formal arrest. However, in this case, the court has limited the applicability of this principle by holding that participation in search proceedings pursuant to lawful authorization does not amount to custody.

Relevant Provisions:

Article 22(2) of the Constitution of India

“22. Protection against arrest and detention in certain cases.-

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.”

Section 132(1) of the CGST Act, 2017

“132. Punishment for certain offences.-

A2Z Taxcorp LLP

(1) Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:-

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

...

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;”

Section 132(5) of the CGST Act, 2017

“132. Punishment for certain offences.-

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.”

Section 67(2) of the CGST Act, 2017

“67. Power of inspection, search and seizure.-

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that

A2Z Taxcorp LLP

he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.”

[CLICK HERE FOR OFFICIAL JUDGMENT COPY](#)

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.